

JS 44 (Rev. 1/2013)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

TASHA BASTON and MICHAEL BASTON

(b) County of Residence of First Listed Plaintiff NASSAU  
(EXCEPT IN PLAINTIFF CASES)

## DEFENDANTS

ARAMARK CORPORATION and ARAMARK FACILITIES MANAGEMENT, LLC,

County of Residence of First Listed Defendant PHILADELPHIA  
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

ANDREW J. SMILEY, ESQ.

SMILEY &amp; SMILEY, LLP

60 E. 42nd Street, Suite 950, New York, NY 10165 (212) 986-2022

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

- |  |  |   |  |  |   |
|--|--|---|--|--|---|
| <input type="checkbox"/> 110 Insurance   | <input type="checkbox"/> 310 Airplane                              | <input type="checkbox"/> 365 Personal Injury - Product Liability                          | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158                   | <input type="checkbox"/> 375 False Claims Act   |
| <input type="checkbox"/> 120 Marine  | <input type="checkbox"/> 315 Airplane Product Liability            | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 690 Other                                       | <input type="checkbox"/> 423 Withdrawal 28 USC 157               | <input type="checkbox"/> 400 State Reapportionment  |
| <input type="checkbox"/> 130 Miller Act  | <input type="checkbox"/> 320 Assault, Libel & Slander              | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability                   |  | <input type="checkbox"/> 820 Copyrights                          | <input type="checkbox"/> 410 Antitrust  |
| <input type="checkbox"/> 140 Negotiable Instrument                                   | <input type="checkbox"/> 330 Federal Employers' Liability          | <input type="checkbox"/> 370 Other Fraud  |  | <input type="checkbox"/> 830 Patent                              | <input type="checkbox"/> 430 Banks and Banking  |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment       | <input type="checkbox"/> 340 Marine                                | <input type="checkbox"/> 371 Truth in Lending   |  | <input type="checkbox"/> 840 Trademark                           | <input type="checkbox"/> 450 Commerce   |
| <input type="checkbox"/> 151 Medicare Act  | <input type="checkbox"/> 345 Marine Product Liability              | <input type="checkbox"/> 380 Other Personal Property Damage                               |  |  | <input type="checkbox"/> 460 Deportation  |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 350 Motor Vehicle                         | <input type="checkbox"/> 385 Property Damage Product Liability                            | <input type="checkbox"/> 710 Fair Labor Standards Act                    | <input type="checkbox"/> 861 HIA (1395ff)                        | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations                   |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits           | <input type="checkbox"/> 355 Motor Vehicle Product Liability       |   | <input type="checkbox"/> 720 Labor/Management Relations                  | <input type="checkbox"/> 862 Black Lung (923)                    | <input type="checkbox"/> 480 Consumer Credit  |
| <input type="checkbox"/> 160 Stockholders' Suits                                     | <input checked="" type="checkbox"/> 360 Other Personal Injury      |   | <input type="checkbox"/> 740 Railway Labor Act                           | <input type="checkbox"/> 863 DIWC/DIWW (405(g))                  | <input type="checkbox"/> 490 Cable/Sat TV   |
| <input type="checkbox"/> 190 Other Contract  | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice |   | <input type="checkbox"/> 751 Family and Medical Leave Act                | <input type="checkbox"/> 864 SSID Title XVI                      | <input type="checkbox"/> 850 Securities/Commodities/Exchange                                  |
| <input type="checkbox"/> 195 Contract Product Liability                              |  |   | <input type="checkbox"/> 790 Other Labor Litigation                      | <input type="checkbox"/> 865 RSI (405(g))                        | <input type="checkbox"/> 890 Other Statutory Actions  |
| <input type="checkbox"/> 196 Franchise   |  |   | <input type="checkbox"/> 791 Employee Retirement Income Security Act     |  | <input type="checkbox"/> 891 Agricultural Acts  |
| <input type="checkbox"/> 210 Land Condemnation                                       | <input type="checkbox"/> 440 Other Civil Rights                    | <b>Habeas Corpus:</b>   |  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 893 Environmental Matters  |
| <input type="checkbox"/> 220 Foreclosure   | <input type="checkbox"/> 441 Voting                                | <input type="checkbox"/> 463 Alien Detainee   |  | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609         | <input type="checkbox"/> 895 Freedom of Information Act                                       |
| <input type="checkbox"/> 230 Rent Lease & Ejectment                                  | <input type="checkbox"/> 442 Employment                            | <input type="checkbox"/> 510 Motions to Vacate Sentence                                   |  |  | <input type="checkbox"/> 896 Arbitration  |
| <input type="checkbox"/> 240 Torts to Land   | <input type="checkbox"/> 443 Housing/Accommodations                | <input type="checkbox"/> 530 General  | <input type="checkbox"/> 462 Naturalization Application                  |  | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 245 Tort Product Liability                                  | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment     | <input type="checkbox"/> 535 Death Penalty  | <input type="checkbox"/> 465 Other Immigration Actions                   |  | <input type="checkbox"/> 950 Constitutionality of State Statutes                              |
| <input type="checkbox"/> 290 All Other Real Property                                 | <input type="checkbox"/> 446 Amer. w/Disabilities - Other          | <b>Other:</b>   |  |  |   |
|  | <input type="checkbox"/> 448 Education                             | <input type="checkbox"/> 540 Mandamus & Other   |  |  |   |
|  |  | <input type="checkbox"/> 550 Civil Rights   |  |  |   |
|  |  | <input type="checkbox"/> 555 Prison Condition   |  |  |   |
|  |  | <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                   |  |  |   |

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC Section 1332

Brief description of cause:

Defendants negligently performed excavation work, struck a gas line and caused an explosion.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

45,000,000.00

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/22/2013

SIGNATURE OF ATTORNEY OF RECORD

(AJS/2924)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

4653065659

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, ANDREW J. SMILEY, counsel for PLANTIFFS, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☐ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? NO
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? NO
- b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? NO

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? NO

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes ☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes (If yes, please explain) ☒ No

I certify the accuracy of all information provided above.

Signature: 